IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3318 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3319 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3320 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3321 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3322 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3323 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3324 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3325 of 2000
WITH
SPECIAL CIVIL APPLICATION NO 3326 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TAKHATSING MADABHAI PATEL VILLAGE KANPUR
Versus
STATE OF GUJARAT, THROUGH SECRETARY,

Appearance:

MR UM SHASTRI for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 22/03/2001

COMMON ORAL JUDGEMENT

1. These Petitions filed by different petitioners involving common questions of law and fact are proposed to be disposed of by a common judgement.

2. The petitioners in all these petitions have prayed for quashing of Government resolution dated 22.12.1999 cancelling Resolution dated 17.10.1988 with consequential prayer that the Respondents be directed to give the benefits to the petitioners as is being made available to regular Watchman of the Respondent department.

3. The brief facts are that the petitioners are working as Class-IV daily wager Watchman since long in the Respondents' office and their nature of work is permanent. Inspite of repeated requests made by the petitioners, neither their services were regularised nor they were made permanent. The grievance of the petitioners is that the action of the Respondent in not regularising the services of the petitioners is contrary to the provisions of the Industrial Disputes Act 1947 and is also violative of Article 14 and 16 of the Constitution of India. Their further grievance is that their services should be regularised and they should be paid equal pay for equal work. Their further grievance is that the resolution of the Government dated 22.12.1999 cancelling the Government resolution dated 17.10.1988 on the ground that it is not applicable to the Forest Department, is contrary to law, which it required to be quashed.

4. The list was revised twice but none appeared for the petitioners. As such, Shri I.M.Pandya, learned AGP has been heard and the Petition as well as Counter Affidavit has been considered. After considering the Counter Affidavit, I find that the petitioners are not entitled to any relief. It is an admitted case of the petitioners that they are working as Class-IV daily wagers Watchman. They are not regular and permanent employees. In the

Petition, it is vaguely stated that they are in service as daily wagers Watchman since long. But in the Counter Affidavit it has been deposed in para 7 that the petitioners have not completed 240 days of service. Consequently, they cannot be permitted to say that they are permanent employees or that they should be treated as permanent employees.

5. The resolution dated 17.10.1988 is not applicable to the Forest Department. It was issued by Road & Building Department, hence the petitioners who are daily wage employees of the Forest Department, cannot claim any benefit of this Resolution.

6. It may also be noted that this Resolution was cancelled by subsequent resolution dated 22.12.1999. If the earlier resolution of the Government which is not applicable, was subsequently cancelled by the Government, the subsequent resolution can, by no stretch of imagination, be said to be illegal or ultravires. Since the earlier resolution dated 17.10.1988 was not applicable to Forest Department, the daily wage employees of Forest Department cannot be permitted to contend that subsequent resolution dated 22.12.1999, cancelling earlier resolution dated 17.10.1988 is illegal or ultravires or without jurisdiction.

7. The petitioners are daily wage employees of the Forest Department. Forest Department is not an Industry for which Division Bench pronouncement of this Court in Shankarji Chellaji Thakkar Vs. State of Gujarat reported in GLH 2000(1) page 482 can be referred. It has been clearly held in this case that the provisions of Industrial Disputes Act are not applicable to the Forest Department and Forest Department is not an Industry. Consequently, the petitioners cannot claim benefit of Industrial Disputes Act nor it can be held that they are Workmen within the definition of Industrial Disputes Act.

8. A daily wager who has not completed 240 days service, cannot complain against retrenchment. No Rejoinder has been filed to the Counter Affidavit filed by the Respondents. Consequently, it has to be accepted that the daily wagers have not completed 240 days as on 1.10.1988.

9. It also emerges from the Counter Affidavit that the petitioners are not actual Watchmen. In the Forest Department, actual Watchmen are the regular employees who are called as Beat Guards and daily wagers who are appointed by Forest Department are appointed to help the

Beat Guards. As such, the petitioners cannot be held to be Watchmen and as such they cannot complain that equal pay for equal work should be given to them. They are not Beat Guards nor they are doing the work of Beat Guards. Hence they are not entitled to the same salary which is being paid to Beat Guards.

10. For the reasons given above, I do not find any ground for quashing the Government resolution dated 22.12.1999 nor I find any ground for declaring that Government Resolution dated 17.10.1988 is applicable to the Forest Department. The Petition has therefore, no substance. The petitioners are not entitled to any relief. All the Petitions are therefore, dismissed with no order as to cost.

(D.C.Srivastava J)

/waghela